

**EPA Comments and Concerns on the Pennsylvania Agriculture Inspection
Standard Operating Procedure Document
July 28, 2016**

- Overall, the SOP outlines clear roles and responsibilities of participating agencies, has well-described mechanisms for coordination between PADEP and CCDs, and clearly defines the program scope. The focus on non-CAFOs and non-CAOs is appropriate and the SOP links well to the Commonwealth's inspection goals and milestones. EPA expects the following concerns to be addressed in the implementation of and training for use of the SOP.

Remaining Areas of Concern:

- EPA wants to be clear that any practices that are credited in the CBP Partnership model must comply with the current Chesapeake Bay Program partnership-approved BMP definitions and state verification protocols which will be fully implemented in 2018. For example, those Manure Management plans that are not developed by a certified planner do not meet the CBP partnership-approved BMP definition for credit in the model.
Response: Understood.
- PADEP has not defined the universe (or an estimate) of agriculture operations that will be inspected. PADEP has indicated that the objective is to verify 10% of agriculture operations per year but without defining the universe of operations there is no way to know if 10% have been verified. I.e. if using the estimate of 33,000 farms in the Chesapeake Bay watershed that would equate to visiting 3,300 farms per year. Please provide us with your estimate of the number of farms to use for a baseline or we will assume that it is 33,000.
Response: We have no way to give you a finite number of actual agricultural operations in the watershed that is any more accurate than the 33,000 already quoted.
- The SOP indicates that Regional Offices would perform at least 100 inspections per filled Water Quality Specialist (WQS) position per fiscal year and the quota may be met with initial and follow up visits. Allowing repeat visits to the same operation will reduce PADEP's ability to verify the 10% of operations with appropriate plans since the same farm operation could be counted multiple times. Please revise this element of the SOP accordingly.
Response: The following is the established number of inspections that each region must complete this next year: SCRO – 300; NCRO – 200; NERO – 100 and SERO – 30. The SOPs were negotiated with the conservation districts, the State Conservation Commission, the Department of Agriculture, the Natural Resource Conservation Service and the State Association of Conservation Districts. Going back to modify them as suggested will significantly delay implementation. This is not an option at this point in time.
- EPA expects that PADEP articulate when and how they will evaluate and address implementation of plans and the associated required agricultural conservation practices in the next phase of the compliance effort.

Response: Understood. We expect to take the lessons learned from the implementation of this effort and incorporate it into the Phase 3 WIP as part of the next phase of this compliance effort.

- EPA is concerned with the SOP credits 1 inspection credit for an attempted inspection. EPA recognizes the need to report that District and Regional staff made an attempt to perform an inspection, however the intent is for PA to inspect 10% of the farms each year. EPA expects the SOP to be revised to call for the district to go to another farm in the event that the owner/operator is not available or refuses to participate in the inspection.

Response: Figure 2 of the final SOP, dated May 27, 2016, illustrates the activities that will be considered credit toward an inspection. Fundamentally, credit is given when an inspection report is completed (to the maximum extent it can be). For the situation where an inspector visits a farm but is refused access, we are allowing this (when documented on an inspection form) to count as an inspection. This was negotiated with the conservation districts, the State Conservation Commission, the Department of Agriculture, the Natural Resource Conservation Service and the State Association of Conservation Districts. DEP agreed to this because of the investment of time involved in preparing for and attempting to conduct the inspection. We expect this to be relatively rare. Where the conservation districts encounter a refusal on the part of a farmer, DEP will conduct the inspection. There were other activities that were not agreed to by DEP to count toward an inspection; for example, when a farmer is not available and the inspector needs to revisit the farm later, stakeholders argued that this should count as an inspection but DEP did not agree to this.